

HUGHES & NEW OIL COMPANY, INC., ET AL.

IBLA 76-1

Decided November 4, 1975

Appeal from a decision of the Eastern States Office, Bureau of Land Management, denying approval to assignments of record title to oil and gas leases BLMA 052426 (H) and (P) (Miss.).

Set aside and remanded.

1. Oil and Gas Leases: Assignments and Transfers

The requirement of 43 CFR 3106.3-1 that assignments be filed in the State Office within 90 days of their execution is directory, not mandatory, its purpose being one of Departmental convenience. Where the failure to timely file an assignment has not adversely affected rights of any third parties, such assignment may be approved.

APPEARANCES: John T. Green, Esq., Natchez, Mississippi, for appellants.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Ethel B. Francis, Noland E. Biglane and Hughes & New Oil Company, Inc., have appealed from a decision of the Eastern States Office, Bureau of Land Management (BLM), denying the assignment from Francis and Biglane to the Hughes & New Oil Company of record title to oil and gas leases BLMA 052426 (H) and (P) (Miss.). The assignments in issue were executed by the assignors Francis and Biglane on December 30, 1973, and the requests for approval were executed by the assignee Hughes & New Oil Company on October 17, 1974. The instruments were not presented to the Eastern States Office for approval until May 1, 1975. By decision of May 28, 1975, BLM denied the assignments, referring to 43 CFR 3106.3-1

which provides that "[t]o obtain approval of a transfer affecting the record title of an oil and gas lease, a request for such approval must be made, within 90 days from the date of the execution of the assignment by the parties."

On appeal appellants contend that though the dates affixed to the assignments and requests for approval are December 30, 1973, and October 17, 1974, respectively, the assignments were actually executed, corrected and reaffirmed subsequent to April 15, 1975.

[1] We note that the cited regulation, 43 CFR 3106.3-1, does not mandate the rejection of the assignment. The Department has held a number of times that the purpose of the regulation is one of Departmental convenience. See, e.g., James V. Kane, 19 IBLA 171 (1975); Newton Oil Co., A-30774 (September 29, 1967); Alice R. Rudie, A-30061 (March 25, 1964). As this Board recently held, in Joseph Alstad, 19 IBLA 104, 111 (1975), "one of the purposes of the regulation was to encourage assignees to file the assignment so that third parties would have notice of the transfer, and also to apprise the Department of the parties in interest in the lease."

There is nothing in the record in the instant case that would indicate that the failure of the assignees to file the assignment adversely affected the rights of third parties. Therefore, we believe further consideration should be given to the assignments.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case files remanded with instructions to approve the assignments, all else being regular.

Douglas E. Henriques
Administrative Judge

We concur:

Joan B. Thompson
Administrative Judge

Joseph W. Goss
Administrative Judge

